

Carol Amend/R3/USEPA/US

11/07/2007 10:01 AM

To tracy.wilson@ars.usda.gov

cc

bcc Melissa Toffel/R3/USEPA/US

Subject Fw: BARC IRL

Ms Wilson,

Thank you for taking the time to speak with me today. Attached are both the original request for information, and a follow up letter. As the response to our request for information is long overdue, the next step in our process is the issuance of a formal enforcement action to compel a response. The following is a summary of my staff's discussion with Mr Obineme.

6/29/07 - Request for information sent, response due 7/23/07.

7/19/07 - Facility requested extension of time to 8/1/07 to respond; granted.

8/2/07 - Facility requested additional extension of time, committed to responding by 8/15/07.

8/20/07 - Melissa spoke to facility; they said they would find out when response had been sent.

8/24/07 - Melissa spoke to facility; they committed to sending response via overnight mail.

9/4/07 - Melissa calls facility again; they promise to follow up.

9/20/07 - We Fed-Ex a "last chance" letter, pointing out our enforcement options in the event they do not respond.

11/1/07 - Still have received no response to our 6/29 request for information.

To date, we have not received a response to our request for information. I urge your immediate attention to this matter. If there are any questions, please do not hesitate to call me at 215-814-5430, or Melissa Toffel at 215-814-2060.

Thanks,

Carol Amend, Chief

RCRA Compliance and Enforcement Branch

USEPA, Region III

----- Forwarded by Carol Amend/R3/USEPA/US on 11/07/2007 09:47 AM -----

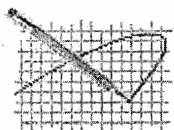
Melissa Toffel/R3/USEPA/US

11/07/2007 09:32 AM

To Carol Amend/R3/USEPA/US@EPA

cc

Subject BARC IRL



InfoRequest\_0507\_.wpd BARC\_LastChance\_0907\_.wpd

Melissa A. Toffel ~\*

U.S. EPA Region III

RCRA Compliance & Enforcement

Phone: 215/814-2060

Fax: 215/814-3163

\* Visit <http://www.epa.gov/oust/>



"Obineme, Christian"  
<Christian.Obineme@ARS.U  
SDA.GOV>

11/08/2007 02:31 PM

To "Wilson, Tracy" <Tracy.Wilson@ARS.USDA.GOV>

cc Melissa Toffel/R3/USEPA/US@EPA

bcc

Subject Compliance Information

Tracy,

I spoke with Melissa this morning with regard to the subject request. I assured her she will receive response to her inquiry by COB, today. I will like to mention that she has been very patient and understanding with us and I would do whatever it takes not aquiver the relationship. Thanks.

Chris

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**SUBJECT:** RCRA Referral Documents for RCRA UST Enforcement      December 19, 2007  
Beltsville Agricultural Research Service  
Beltsville, MD

**FROM:** Melissa Toffel  
RCRA Compliance and Enforcement Branch (3WC31)  
Waste and Chemicals Management Division

**TO:** Mary Coe, Chief  
Waste and Chemical Law Branch (3RC30)  
Office of Regional Counsel

**THRU:** Carol Amend, Chief  
RCRA Compliance and Enforcement Branch (3WC31)  
Waste and Chemicals Management Division

The RCRA Enforcement and Compliance Branch (RCEB) is hereby requesting that a Show Cause letter, under Subtitle I of RCRA, be issued against the Beltsville Agricultural Research Service, located in Beltsville, Maryland. This referral is based on RCRA UST violations discovered during inspections that took place on February 28 and March 2, 2007.

In support of this request, I, as the RCEB case officer responsible for this case, have attached the following information for review by an ORC attorney. These documents are being provided:

☒ Violation Summary Sheets  
☒ Inspection Report  
☒ Photographs  
☐ Sampling Results  
☒ Information Request(s) and Response(s)  
☒ Tier Screening Form  
☐ State Enforcement Action (current NOVs and all prior actions)  
☒ Correspondence  
☒ State Notification  
☒ Dun & Bradstreet Reports  
☒ Other: Draft Penalty Calculation

The RCRA Compliance and Enforcement Branch (RCEB) is committed to working closely with the assigned attorney on this matter to complete the case development process. This enforcement team (ORC attorney and RCEB staff) will endeavor to have this case ready for

issuance by the next quarter. To facilitate that effort, **RCEB policy requires that I contact the attorney assigned to this case within the first two weeks after this referral memo is sent or within two weeks of an attorney being assigned to the case.**

Please feel free to contact me at x 2060 should you have any questions or wish to discuss this case further.

Attachments



Stacie  
Peterson/R3/USEPA/US  
02/13/2008 03:06 PM

To Joyce Howell/R3/USEPA/US@EPA, Stacie  
Peterson/R3/USEPA/US@EPA, Melissa  
Toffel/R3/USEPA/US@EPA

cc

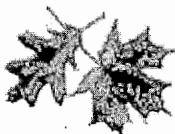
bcc

Subject Fw: Response to Show Cause Letter (Beltsville)

I have dealt with Mr. Prevar during my inspection. Let me know when and if you want me to set up a call.

Stacie Peterson, Environmental Engineer  
US EPA Region III - RCRA Compliance & Enforcement (3WC31)  
1650 Arch Street  
Philadelphia, PA 19103  
(215)814-5173 - Phone  
(215)814-3163 - Fax

----- Forwarded by Stacie Peterson/R3/USEPA/US on 02/13/2008 03:05 PM -----



Carol Amend/R3/USEPA/US

02/13/2008 03:04 PM

To Joyce Howell/R3/USEPA/US@EPA, Stacie  
Peterson/R3/USEPA/US@EPA, Melissa  
Toffel/R3/USEPA/US@EPA

cc

Subject Fw: Response to Show Cause Letter (Beltsville)

----- Forwarded by Carol Amend/R3/USEPA/US on 02/13/2008 03:03 PM -----



"McCue, Kathy"  
<Kathy.McCue@ARS.USDA.  
GOV>

02/13/2008 01:56 PM

To Carol Amend/R3/USEPA/US@EPA

cc <Thomas.fox@usda.gov>, "Roark, Terry"  
<Terry.Roark@ARS.USDA.GOV>, "Johnson, Phyllis"  
<Phyllis.Johnson@ARS.USDA.GOV>, "Tucker, Archie"  
<Archie.Tucker@ARS.USDA.GOV>, "Collins, Wanda"  
<Wanda.Collins@ARS.USDA.GOV>, "Wilson, Tracy"  
<Tracy.Wilson@ARS.USDA.GOV>, "Obineme, Christian"  
<Christian.Obineme@ARS.USDA.GOV>, "Prevar, David"  
<David.Prevar@ARS.USDA.GOV>

Subject Response to Show Cause Letter

Response to your letter dated February 4, 2008, RE: Show Cause Letter is attached.

Kathy McCue, Executive Assistant  
USDA, ARS, Beltsville Area Director's Office  
10300 Baltimore Avenue, Room 223, Bldg. 003  
Beltsville, MD 20705  
Tel.: 301-504-6078  
Fax: 301-504-5863  
E-mail: kathy.mccue@ars.usda.gov

Show Cause Letter.pdf





United States Department of Agriculture

Research, Education, and Economics  
Agricultural Research Service

February 12, 2008

Carol Amend, Chief  
RCRA Compliance & Enforcement Branch  
Waste & Chemicals Management Division  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Dear Ms. Amend:

This letter is in response to your letter dated February 4, 2008, RE: Show Cause Letter. We would like to take advantage of your offer to discuss this matter, and respectfully request a conference at your earliest convenience. I assure you that we take these matters seriously.

It is my understanding that corrective actions have been taken where necessary following the inspections in 2007. I have asked the appropriate staff to assemble documentation that addresses the issues for discussion at the conference. We appreciate having an opportunity to discuss the allegations.

Please contact Dave Prevar, Chief, Safety, Occupational Health & Environment Staff, at our location (Tel. No.: 301-504-5557) to schedule a meeting.

Sincerely,

for PHYLLIS E. JOHNSON  
Director

cc:

T. Fox, Office of General Counsel  
T. Roarke, AFM  
P. Johnson, BARC  
A. Tucker, BARC  
W. Collins, BARC  
T. Wilson, BARC  
C. Obineme, BARC  
D. Prevar, BARC



Beltville Area Director's Office  
10300 Baltimore Avenue, Beltville, Maryland 20705-2350

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## **Beltsville Agricultural Research Service (BARC)**

### **VIOLATION I**

#### **OWNER & OPERATOR:**

U.S. Department of Agriculture  
Agricultural Research Service, BARC  
10300 Baltimore Avenue  
Building 426, BARC-East  
Beltsville, MD 20705

#### **FACILITY:**

Beltsville Agricultural Research Service  
10300 Baltimore Avenue  
Beltsville, MD 20705  
Facility ID No. 9292

#### **VIOLATION:**

Failure to conduct release detection on 9 of their USTs at 4 separate buildings over the last five years as required by COMAR § 26.10.05 (40 C.F.R. § 280.41(a)), which states:

*"Tanks shall be monitored at least every thirty (30) days for releases...."*

#### **HOW THE FACILITY VIOLATED THE REGULATIONS:**

- An inspection was performed at the facility on February 28 and March 2, 2007 by an EPA contractor. The inspector noted in his report that facility management was not able to provide any leak detection records, and they could not provide documentation that the monitoring system was conducting monthly leak detection tests for any of the tanks at the facility. All the buildings were equipped with INCON TS-1000 EFI Monitoring Systems.
- An Information Request Letter ("IRL") was sent to the owner on June 29, 2007. The letter asked if release detection was being conducted, and for the method to be described. The letter also asked for documentation.
- The response from the BARC, dated November 9, 2007 stated that release detection was being conducted, but did not describe the method. In answer to our request for records of release detection, they only included tank tightness tests that were all performed *after* EPA's inspections.
- Due to the evidence it appears that the Facility has not conducted release detection for nine of their USTs over the last five years.

Building	Tank # & size	What it holds
27	T1 4,000g	diesel
27	T2 4,000g	gasoline



445/446/447	T1 2,000g	diesel
445/446/447	T3 10,000g	gasoline
445/446/447	T4 550g	kerosene
166	T1 2,500g	diesel
166	T2 4,000g	gasoline
301D	T1 4,000g	gasoline
301D	T2 4,000g	diesel

***SUPPORTING EVIDENCE:***

Att. A      Inspection Report dated April 17, 2007  
Att. B      Information Request Letter sent June 29, 2007  
Att. C      Response from BARC to our IRL, dated November 9, 2007

***PENALTY CATEGORY:***

Extent of Deviation - Major  
Potential for Harm - Major

# **Beltsville Agricultural Research Service (BARC)**

## **VIOLATION II**

### ***OWNER & OPERATOR:***

U.S. Department of Agriculture  
Agricultural Research Service, BARC  
10300 Baltimore Avenue  
Building 426, BARC-East  
Beltsville, MD 20705

### ***FACILITY:***

Beltsville Agricultural Research Service  
10300 Baltimore Avenue  
Beltsville, MD 20705  
Facility ID No. 9292

### ***VIOLATION:***

Failure to have annual testing conducted on their line leak detectors in accordance with COMAR § 26.10.05(.05)(B) (40 C.F.R. § 280.44(a)), which states:

*"The owner or operator shall conduct an annual test of the operation of the leak detector, in accordance with the manufacturer's requirements."*

### ***HOW THE FACILITY VIOLATED THE REGULATIONS:***

- An inspection was performed at the facility on February 28 and March 2, 2007 by an EPA contractor. The inspector noted in his report that facility management was unable to provide any documentation to show that functionality tests of the ALLD on Tank #3 at Building 445, and on both tanks at Building 166, had ever been conducted.
- An Information Request Letter ("IRL") was sent to the owner on June 29, 2007. The letter asked if the ALLD on Tank #3 at Building 445 had been tested annually. The response, dated November 9, 2007, was "No". The IRL also asked if annual testing had been performed on the ALLDs on both tanks at building 166, and the response to that was also "No".
- Due to the evidence it appears that the Facility failed to annually test the three ALLDs for the last five years.

### ***SUPPORTING EVIDENCE:***

Att. A	Inspection Report dated April 17, 2007
Att. B	Information Request Letter sent June 29, 2007
Att. C	Response from BARC to our IRL, dated November 9, 2007

### ***PENALTY CATEGORY:***

Extent of Deviation - Major  
Potential for Harm - Major

## **Beltsville Agricultural Research Service (BARC)**

### **VIOLATION III**

#### **OWNER & OPERATOR:**

**U.S. Department of Agriculture**  
Agricultural Research Service, BARC  
10300 Baltimore Avenue  
Building 426, BARC-East  
Beltsville, MD 20705

#### **FACILITY:**

**Beltsville Agricultural Research Service**  
10300 Baltimore Avenue  
Beltsville, MD 20705  
Facility ID No. 9292

#### **VIOLATION:**

Failure to have a line tightness test conducted annually, or to have another method of monthly monitoring on the pressurized piping, in accordance with COMAR § 26.10.05(.05) (40 C.F.R. § 280.41(b)(1)(ii)), which states:

*"Underground piping that conveys regulated substances under pressure shall have an annual line tightness test conducted in accordance with §6013.3 or have monthly monitoring conducted in accordance with §6013.4."*

#### **HOW THE FACILITY VIOLATED THE REGULATIONS:**

- An inspection was performed at the facility on February 28 and March 2, 2007 by an EPA contractor. The inspector noted in his report that the gasoline manway (Tank #3) at Building 445 did not have a sump sensor. The inspector did not collect any information on line tightness tests (LTT) for Tank #3.
- An Information Request Letter ("IRL") was sent to the owner on June 29, 2007. The letter asked if a LTT has been conducted annually on the pressurized piping on Tank #3 at Building 445, or if any other method of release detection had been conducted on the piping. The response was "No".
- In their response to our IRL, BARC included LTT results for Tank #3 at Building 445, showing that the piping passed on April 11, 2007, *after* EPA's inspection.
- The inspector noted in his report that he observed signs of leakage from the piping of Tank #2 at Building 166. The inspector observed a sump sensor, however, the sensor was set at a level too high from the bottom of the sump for it to be considered a valid method of piping release detection.
- The IRL that was sent to BARC asked if the sump sensor had been lowered to the correct height since EPA's inspection, but no response was given. No documentation of a LTT was provided either.
- Due to the evidence it appears that the Facility failed to have LTTs conducted on the piping on Tank #3 at Building 445, and on Tank #2 at Building 166, or to have

any method of monthly monitoring in place for both sets of pressurized piping.

***SUPPORTING EVIDENCE:***

Att. A	Inspection Report dated April 17, 2007
Att. B	Information Request Letter sent June 29, 2007
Att. C	Response from BARC to our IRL, dated November 9, 2007

***PENALTY CATEGORY:***

Extent of Deviation - Major  
Potential for Harm – Major

## **Beltsville Agricultural Research Service (BARC)**

### **VIOLATION IV**

#### **OWNER & OPERATOR:**

**U.S. Department of Agriculture**  
Agricultural Research Service, BARC  
10300 Baltimore Avenue  
Building 426, BARC-East  
Beltsville, MD 20705

#### **FACILITY:**

**Beltsville Agricultural Research Service**  
10300 Baltimore Avenue  
Beltsville, MD 20705  
Facility ID No. 9292

#### **VIOLATION:**

Failure to have overfill protection in accordance with COMAR § 26.10.03(.01)(D)(1)(b) (40 C.F.R. § 280.20(c)(1)(ii)), which states:

*"...to prevent overfilling associated with the transfer of regulated substances each owner and operator must use overfill prevention equipment..."*

#### **HOW THE FACILITY VIOLATED THE REGULATIONS:**

- An inspection was performed at the facility on February 28 and March 2, 2007 by an EPA contractor. The inspector noted in his report for the tanks at Building 166 that he did not observe overfill cutoff valves in the fill pipes. Facility management was unable to provide documentation to support their claim that the monitoring system has overfill sensors.
- An Information Request Letter ("IRL") was sent to the owner on June 29, 2007. The letter asked BARC to provide documentation of overfill on the tanks at Building 166. BARC did not answer the question.
- The inspector noted in his report for Tank #s 1 and 3 at Building 445 that he did not observe overfill cutoff valves in the fill pipes. Facility management was unable to provide documentation to support their claim that the monitoring system has overfill sensors. Also, the inspector was unable to test the external audible alarm on Building 446.
- The IRL sent by EPA asked BARC to provide documentation of overfill on Tank #s 1 and 3 at Building 445. BARC did not answer the question.
- Due to the evidence it appears that the Facility failed to have overfill protection on the two tanks at Building 166, and on Tank #s 1 and 3 at Building 445.

#### **SUPPORTING EVIDENCE:**

Att. A            Inspection Report dated April 17, 2007

Revised 12-14-07

Att. B

Information Request Letter sent June 29, 2007

Att. C

Response from BARC to our IRL, dated November 9, 2007

***PENALTY CATEGORY:***

Extent of Deviation - Major

Potential for Harm - Moderate